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MEMORANDUM OF AGREEMENT BETWEEN THE PRODUCTION
AND MARKETING ADMINISTRATION AND THE FOOD AND
DRUG ADMINISTRATION CONCERNING THE INSPECTION
AND STANDARDIZATION ACTIVITIES RELATED TO FOOD
PRODUCTS

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The Food and Drug Administration of the Department of Health, Education and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. The Food and Drug Administration inspects the processing and distribution of foods and examines samples thereof for the purpose of determining their status under that statute. The Federal Food, Drug, and Cosmetic Act also provides for the promulgation by the Secretary of mandatory standards of identity, quality and fill of container for food products after appropriate hearings.

The Production and Marketing Administration of the U. S. Department of Agriculture performs a service function by (1) the development of commercial grade standards for foods and (2) by furnishing inspection and grading services, and issuing certificates of grade or condition to producers, processors, shippers, receivers, or other interested parties. Its major purpose is to assist producers in preparing better quality of products and to provide objective information by means of official certification concerning the grade, quality, or condition of a product which will be of maximum assistance to all interested parties engaged in the marketing functions.

The two agencies have certain common or related objectives in carrying out their respective regulatory and service activities. Therefore, it is believed desirable from the standpoint of public interest to set forth in this memorandum of understanding the working arrangements which are being followed or adopted in the interest of each agency discharging as effectively as possible its responsibilities related to the inspection and standardization activities for food products.

The Production and Marketing Administration will:

(1) Supply the Food and Drug Administration, Washington, D. C., with a complete list of all food processing and packing plants which are operating under PMA continuous or pack-grading inspection or grading contracts. This list will set forth the type of service provided and the food products involved. PMA will periodically advise the Food and Drug Administration of any changes in the list.

(2) Investigate any written report from FDA to the effect that a processor packer has not corrected objectionable conditions found to exist by FDA, and will take such action as is appropriate and necessary in accordance with PMA regulations and contracts.

(3) Decline to inspect or grade samples of products which have been seized by FDA, or which are known to be involved in formal FDA actions. This does not preclude reinspection of legally authorized samples by PMA if the FDA seizures or other actions involve products which had previously been inspected or graded by PMA.

(4) Assign a grade or government legend only to a product which has been inspected for wholesomeness for those factors to which the product is normally susceptible except, whenever the product has not been inspected for these factors, the certificate shall state the specified factors to which the inspection or grading was limited.

(5) Furnish FDA, Washington, D. C., on request, with any pertinent information concerning the grade or quality determination relative to specific lots of products inspected or graded by PMA that have been proceeded against or are being considered for action by FDA.

(6) Report on the inspection certificate any pertinent codes or other marks that will serve to identify the specific goods which are inspected or graded.

(7) Inform FDA, Washington, D. C., whenever it has information that an employee or USDA licensed inspector is to be or has been subpoenaed as a witness at judicial proceedings involving FDA action and advise FDA of the nature of his proposed testimony.

The Food and Drug Administration will:

(1) Invite the PMA inspector stationed at a plant which is operating under PMA inspection to accompany the FDA inspector during his inspection of such plant. The FDA inspector will point out or discuss with the PMA inspector any conditions noted which may result in violations of the Food, Drug and Cosmetic Act.

(2) Request PMA, Washington, D. C., for any pertinent information concerning the grade or quality determinations relative to specific lots of products that have been proceeded against or are being considered for action by FDA, and are believed to have been inspected by PMA. FDA will take into consideration the PMA inspection certificates and other available data in determining what action, if any, should be taken.

(3) Advise PMA, Washington, D. C., immediately of all seizures by FDA of food products so that the processing or packing plants and the products involved can be made known to PMA inspectors.

(4) Notify PMA, Washington, D. C., in writing immediately concerning the details of serious objectionable conditions whenever such conditions are found to exist in processing or packing plants where PMA is currently conducting inspection of products, or in other food plants

931862

when FDA believes such information would be of value to PMA in its inspection and grading activities.

(5) Whenever possible mark the claimant's samples of seized products in such a manner that PMA inspectors or graders will recognize such post seizure samples.

(6) Discuss with PMA, Washington, D. C., the criteria used by FDA in order to provide the maximum assurance that PMA does not classify a food as acceptable which FDA would consider actionable under the Food, Drug and Cosmetic Act.

(7) On request of PMA will review labels, legends, stamps and other official marks for products packed under the various inspection services of PMA from the standpoint of possible conflict with the misbranding provisions of the Food, Drug, and Cosmetic Act.

It is mutually agreed that:

(1) Field offices of both agencies will maintain close working relations with each other.

(2) Proposed regulations by either agency establishing any type of standard will be referred to the other Agency for review and comments prior to issuance, except amendments to PMA grade standards which do not modify any of the minimum quality factors contained in standards previously referred to FDA for its review and recommendation.

(3) Both agencies will work with industry towards greater efficiency in connection with improvement in coding methods.

(4) Both agencies will cooperate in the handling of those cases of misbranding which also come under the provisions of the Perishable Agricultural Commodities Act of 1930, as amended.

(5) Nothing in this agreement modifies previously existing agreements setting forth procedures concerning plugged cars of wheat or wheat deemed unfit for mixing.

(6) The provisions of this memorandum may be modified at any time by mutual agreement.

Approved: HOWARD H. GORDON (Signed)
Administrator
Production and Marketing Administration

May 29, 1953

Approved: C. W. CRAWFORD (Signed)
Commissioner
Food and Drug Administration



